

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE:

<b>JOHN M. BURKE</b>	:	CHAPTER 13
Debtor	:	Hearing: January 15, 2025 – 10:00 AM
	:	<b>No. 23-13899 (amc)</b>

**MOTION OF PHILADELPHIA FEDERAL CREDIT UNION FOR RELIEF from  
THE AUTOMATIC STAY PURSUANT TO 11 U.S.C. §§362(d) and (e)  
and the CO-DEBTOR STAY PURSUANT TO 11 U.S.C. §1301(a)  
and to WAIVE the 14-DAY STAY of RULE 4001(a)(3)**

Philadelphia Federal Credit Union (“PFCU” or the “**Movant**”), by and through its counsel, **KAPLIN STEWART MELOFF REITER & STEIN, P.C.**, hereby moves this honorable Court for Relief from the Automatic Stay, pursuant to 11 U.S.C. §§362(d) and (e), and from the Co-Debtor Stay pursuant to 11 U.S.C. §1301(a) and in support thereof avers as follows:

**INTRODUCTION**

1. The Bankruptcy Court has jurisdiction over this core matter, pursuant to 28 U.S.C. §1334 and 28 U.S.C. §157(a), (b)(1) and (2)(A) and (M), and 11 U.S.C. §362.
2. Venue of this Court is predicated upon 28 U.S.C. §1409.
3. On December 28, 2023 (the “**Petition Date**”), John M. Burke (the “**Debtor**”) filed a voluntary petition for relief under Chapter 13 of the U.S. Bankruptcy Code, in the U.S. Bankruptcy Court for the Eastern District of Pennsylvania, at the docket number appearing above (the “**Petition**”).

**THE LOAN TRANSACTION**

4. On June 23, 2022, the Debtor (and his non-debtor spouse, Meghan Burke (the “**Co-Borrower**”; collectively, the “**Borrowers**”) made, executed and delivered a “Closed-End Note, Disclosure, Loan and Security Agreement (the “**Note**”) to PFCU, evidencing their

indebtedness to PFCU in the original principal amount of \$25,869.18 (the “**Loan**”).

5. A copy of the Note is attached as **Exhibit “A”**.

6. At the same time, as an inducement to PFCU to extend the Loan, in consideration of PFCU’s decision to do so, and as security for its repayment, the Borrowers granted PFCU a lien upon a certain 2020 Kia Sorento (VIN XXXXX-XXXXX-XXX1509; the “**Vehicle**”).

7. The lien upon the Vehicle was perfected by endorsement on the Certificate of Title thereto.

8. A copy of the Certificate of Title endorsed with PFCU’s lien is attached as **Exhibit “B”**.

9. The Loan is an obligation subject to the “hanging paragraph” of 11 U.S.C. §1325, and its balance therefore cannot be “crammed down” to the current value of the Vehicle.

#### **BASES for STAY RELIEF**

10. Under the terms of the Note, payments of \$395.85 each are due on the 23<sup>rd</sup> of each month, beginning on July 23, 2022.

11. Thus, eleven such payments have fallen due post-petition.

12. The Borrowers have made only nine post-petition payments

13. The failure of the Borrowers to make post-petition payments is a failure of “adequate protection” within the meaning of 11 U.S.C. §362(d).

14. A failure of “adequate protection” constitutes “cause” for relief from the automatic stay according to 11 U.S.C. §362(d)(1).

15. The Vehicle is not necessary for an effective reorganization of the Debtor.

16. The Debtor has no equity in the Vehicle.

17. The Co-Borrower, a co-owner of the Vehicle, received consideration for PFCU's claim.

18. The Debtor's Plan does not propose to pay PFCU's claim.

19. If stay relief is granted as against the Debtor, the interest of PFCU would be irreparably harmed by continuation of the co-debtor stay.

20. PFCU requests that the 14-day stay of Rule 4001(a)(3) be waived so that the Vehicle – a patently movable asset – can be repossessed promptly.

**WHEREFORE**, Philadelphia Federal Credit Union requests that this Court enter an Order modifying the Automatic Stay and the Co-Debtor stay to the extent necessary to permit it to repossess the Vehicle pursuant to the Note and security interest, and applicable non-bankruptcy law, that the Court waive the stay of Rule 4001(a)(3), and that the Court grant such other and further relief as is necessary and just.

PFCU also requests such other and further relief as is necessary and just.

Respectfully submitted,

**KAPLIN STEWART MELOFF REITER & STEIN, P.C.**

**By:** /s/ William J. Levant, Esquire  
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